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09/055,240

04/06/98

YEO

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EXAMINER

NEYZARI, A

ART UNIT

PAPER NUMBER

2651

DATE MAILED:

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Reply Brief
req for O. Hearing
4-12-01

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Technology Center 2600

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 22

Application Number: 09/055240
Filing Date: 04/06/98
Appellant(s): YEO

YEO

For Appellant

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed 12-4-2000.

Art Unit: 2651

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of any Amendment filed subsequent to Final Rejection*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

Art Unit: 2651

(7) *Grouping of Claims*

The rejection of claims 33-44 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

U. S. 5,111,444	Fukushima et al	5-1992
Admitted Prior Art (APA) disclosed in the specification (page 1-4, tables 1-3, and Fig 1-2)		

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 33-44 are rejected under 35 U.S.C. 103(a) . This rejection is set forth in prior Office actions, Paper Nos 13 and 16 and as follows:

Admitted prior art discussed in pages 1-4, in table 1, and in Figs 1-2, disclosed an optical disk which comprises of a main area which store digital data. The main area is divided into plural zones. There are spare area in each of the zones of the main area. A size of the spare area is varied in a radial direction of the disk. Admitted prior art disclosed the claimed

Art Unit: 2752

invention except for the rate of the spare area in each of the zones being constant (table 1) rather than being variable (table 2 or 3).

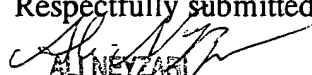
By definition, % of ratio of "size of spare area" (No. of blocks) to "size of recording area" (No. Of blocks) is the rate (%). In admitted prior art the size of recording area (No of blocks) are the same as that of the invention, the size of spare area (No of blocks) are variable in prior art as it is the case in the invention, however the rate(%) is constant in prior art as it is variable in the invention. Selecting different No. Of blocks in spare area in order not to have a constant rate (%) is just a matter of design choice as it has been represented in the admitted prior art and also by Fukushima et al and it would have been an obvious matter of design choice for one with ordinary skill in the art to choose different No of blocks for the spare area.

Therefore, Examiner still believes that selecting different no. of blocks in spare area in order not to have a constant rate (%) is just a matter of design choice as it has been represented in the admitted prior art and also by Fukushima et al, and therefore, it would have been an obvious matter of design choice for one with ordinary skill in the art to choose different no. of blocks for the spare area.

For the above reasons, it is believed that the rejections should be sustained.

A. N.

February 8, 2001

Respectfully submitted,

ALINEYZARI
PRIMARY EXAMINER



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